REMARKS

The claims stand rejected under 35 USC §103(a) as being unpatentable over US Patent Publication No. 2005/0222961 to Staib et al ("Staib") in view of one or more additional references.

Applicants respectfully assert that Staib does not qualify as a reference under 35 USC §102.

A US Patent Application qualifies as a reference under 35 USC §102(e) if it is filed before the filing date of an application. 35 USC §102 (e) states as follows:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; *See USC §102 (e)*

However Staib was not filed before the filing date of the present application. Whereas Staib was filed on September 4, 2004 the present application was filed April 15, 2004, prior to the filing date of Staib. Staib claims priority to a Provisional Application No. 60/559,818 filed April 5, 2004. However the disclosure to the April 5, 2004 Staib Provisional Application is not identical to the disclosure of Staib, and applicants are unable to locate relied on sections of Staib in the '818 Provisional. The contents of the '818 Provisional are included in the concurrently filed Information Disclosure Statement (IDS). If the Examiner wishes to base rejection of any claim on the '818 Provisional, the Examiner is respectfully requested to indicate the particular sections of the '818 Provisional relied on.

Accordingly, in view of Staib not qualifying as a reference, the rejection of each claim, wherein each claim is rejected over Staib in view of one or more reference is respectfully traversed.

Applicants further note the Examiner's rejection of claims 28 – 39. Regarding claims 28 – 39 the Examiner's rejection of claims 28 – 39 is as follows:

> Claims 28 – 39 are in parallel with the limitations presented in claims 1 – 8, and 21 – 27 above, and recite the same limitations. Therefore claims 28 – 39 are rejected under the same rationale, and the same basis. *See Office Action dated November 13, 2009.*

Applicants disagree with the assertion that claims 28 – 39 recite the same limitations of claims 1 – 8 and 21 – 27. A comparison between claims 28 – 39 and 21 – 27 is presented below:

Claims 1 – 8, 21 – 27	Claims 28 - 39
1. (Original) A terminal for conducting an *ad libitum* financial transaction intermediated by a payment token, comprising: a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said *ad libitum* financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency; and an output device for confirming that a transaction is being performed. 2. (Original) The terminal according to claim 1, further comprising a transaction register. 3. (Original) The terminal according to claim 2, wherein said transaction register is operated by a salesperson. 4. (Original) The terminal according to claim 1, further comprising a printer. 5. (Original) The terminal according to claim 4, wherein said printer is configured to print a transaction receipt. 6. (Original) The terminal according to claim 1, further comprising an imaging device. 7. (Previously Presented) The terminal according to claim 6, wherein the imaging device comprises a bar code reader. 8. (Original) A terminal for conducting a financial transaction, comprising: a radio frequency reader, said reader configured to read a selected one of a plurality of payment tokens employing dissimilar data formats, and to provide data corresponding to an elicited response from said selected one of a	28. (New) A terminal for conducting a financial transaction, wherein the terminal comprises: an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, said RF transponder further configured to decode tag data corresponding to said one or more RFID tags; and a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; wherein responsive to said terminal completing a purchase of an article, said RF transponder is configured to perform at least one of: modifying a tag data stored in an RFID tag attached to said purchased article, disabling an RFID tag attached to said purchased article. 29. (New) The terminal of claim 28, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data. 30. (New) The terminal of claim 28, further configured to be detachably attached to a shopping cart. 31. (New) The terminal of claim 28, wherein said RF transponder is configured to communicate to a plurality of RFID tags using a command response protocol. 32. (New) The transaction terminal of claim 28 further configured, responsive to an interaction with a user, to initiate a payment transaction. 33. (New) A terminal for conducting a financial

plurality of payment tokens employing dissimilar data formats;

a memory for recording data and a machine-readable program, said memory in communication with said radio frequency reader;

a communication module in communication with said radio frequency reader and said memory, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; and

a processor module in communication with said memory and said radio frequency reader, said processor module configured by said machine-readable program to attempt to decode said data corresponding to said elicited response;

wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data.

21. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a payment token employing a data format particular to a specific commercial entry.

22. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a data format employing a data format particular to a specific retailer.

23. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a payment token provided by a key fob.

24. (Previously Presented) The terminal of claim 8, further comprising an image reader and decoder for reading and decoding bar codes.

25. (Previously Presented) The terminal of claim 8, is capable of capturing an area electronic image representation.

26. (Previously Presented) The terminal of claim 8, further comprises a signature capture pad.

27. (Previously Presented) The terminal of claim 8, wherein the plurality of payment terms are issued by a plurality of commercial entities.

transaction comprising:

an RF transponder configured to communicate with one or more RFID tags attached to one or more articles placed into said shopping cart, said RF transponder further configured to decode tag data corresponding to said one or more RFID tags; and

a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus;

wherein said terminal is configured, responsive to an interaction with a user, to initiate a purchase transaction for at least one article placed in said shopping card;

wherein said terminal is configured to communicate to an exit sensor apparatus a confirmation of completing purchase transactions for all articles in said shopping cart; and

wherein said terminal is configured to be detachably attached to a shopping cart.

34. (New) The transaction terminal of claim 33, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.

35. (New) A terminal for conducting a financial transaction comprising:

an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, by exchanging one or more bi-directional messages with said one or more RFID tags in order to decode tag data corresponding to said one or more RFID tags; and

a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus;

wherein responsive to an interaction with a user, said terminal is configured to read a transaction card to decode a transaction card data; and

wherein said one or more bi-directional messages are determined based on said transaction card data.

36. (New) The terminal of claim 35, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.

37. (New) The terminal of claim 35, further configured to be detachably attached to a shopping cart.

	38. (New) The terminal of claim 35, wherein said RF transponder is configured to communicate to a plurality of RFID tags using a command response protocol. 39. (New) The terminal of claim 35 further configured, responsive to an interaction with a user, to initiate a payment transaction.

An omnibus rejection of the claims "on the references and for the reasons of record" is stereotypic and usually not informative and should therefore be avoided. This is especially true where certain claims have been rejected on one ground and other claims on another ground. *MPEP 707 (d)* Further, a plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group. *MPEP 707 (d)*

It is believed that all of the pending claims have been addressed. However, failure to address a specific rejection, issue, or comment in the present file history does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made in the present file history are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in the present file history should be construed as an intent to concede any issue with regard to any claim, except as specifically stated, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Accordingly, in view of the above amendments and remarks, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

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Respectfully submitted,

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